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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,688	08/19/2003	Burkhard Stock	70995	6725
23872	7590	12/19/2005	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			BROADHEAD, BRIAN J	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/644,688	STOCK ET AL.	
	<b>Examiner</b> Brian J. Broadhead	<b>Art Unit</b> 3661	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 17 August 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-6,8 and 9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-4 and 6 is/are allowed.  
 6) Claim(s) 5 is/are rejected.  
 7) Claim(s) 8 and 9 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8-17-05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bertsis, 6,198,996, in view of Hasegawa, 2002/0039951.

3. Bertsis discloses an evaluation and control unit(2); using the evaluating and control unit to evaluate the acceleration forces acting on the motor vehicle on lines 30-35, on column 5; providing a handset connecting to the evaluation and control unit by which a breath alcohol concentration of a user is measured and is sent as a signal to the evaluating and control unit, and activating a relay or switch by the evaluating and control unit for either interrupting or closing a circuit to a starter of the motor vehicle as a function of the signal by opening or closing a switch on lines 17-27, on column 16.

Bertsis does not disclose explicitly an acceleration sensor, although it is strongly suggested; and providing an indication as to whether the motor vehicle has been moved or not during a time the accelerating forces were measured. Hasegawa teaches an acceleration sensor; and providing an indication as to whether the motor vehicle has been moved or not during a time the accelerating forces were measured in paragraph

16. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use the sensor and indication of Hasegawa in the invention of Bertsis because discloses determining when a vehicle has been stolen on line 13, on column 9, but does not disclose how that is accomplished. Bertsis already discloses measuring acceleration and by using the teachings of Hasegawa theft can be determined by the already obtained acceleration value. This would require less processing and not need additional sensors.

***Allowable Subject Matter***

4. Claims 1 through 4, and 6 are allowed.
5. Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose determining a frequency spectrum of the functions with the evaluating and control unit on the basis of a Fourier analysis; if a preset percentage of the frequency spectrum is below a set limit frequency, storing, with the evaluating and control unit, information indicating that the motor vehicle was moved; and if the preset percentage of the frequency spectrum is not below the set limit frequency, storing, with the evaluating and control unit information indicating that the motor vehicle was not moved.

***Response to Arguments***

7. Applicant's arguments with respect to claim 5 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*BJB*

BJB

*Thomas G. Black*  
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SUPERVISORY PATENT EXAMINER  
GROUP 3661